

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**DMX ENTERPRISES, INC., et al.,**

**Plaintiffs,**

**v.**

**Civil Action 2:10-cv-992  
Judge James L. Graham  
Magistrate Judge E.A. Preston Deavers**

**UNITED STATES OF AMERICA DRUG  
ENFORCEMENT ADMINISTRATION,**

**Defendant.**

**REPORT AND RECOMMENDATION**

Plaintiffs filed the Complaint in this action on November 5, 2010. To date, Plaintiffs have not effected service of process as required by Federal Rule of Civil Procedure 4(m). On April 28, 2011, the Court ordered Plaintiffs to show cause within fourteen days why the Court should not dismiss the action and why the Court should allow an extension of time to effect service. (ECF No. 4.) Plaintiffs have not responded to the Court's Show Cause Order. The undersigned therefore **RECOMMENDS** that the Court dismiss this action without prejudice pursuant to Rule 4(m) for failure to timely effect service of process.

**PROCEDURE ON OBJECTIONS**

If any party seeks review by the District Judge of this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties objections to the Report and Recommendation, specifically designating this Report and Recommendation, and the part in question, as well as the basis for objection. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

Response to objections must be filed within fourteen (14) days after being served with a copy.

Fed. R. Civ. P. 72(b).

The parties are specifically advised that the failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court. *See, e.g., Pfahler v. Nat'l Latex Prod. Co.*, 517 F.3d 816, 829 (6th Cir. 2007) (holding that “failure to object to the magistrate judge’s recommendations constituted a waiver of [the defendant’s] ability to appeal the district court’s ruling”); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005) (holding that defendant waived appeal of district court’s denial of pretrial motion by failing to timely object to magistrate judge’s report and recommendation). Even when timely objections are filed, appellate review of issues not raised in those objections is waived. *Robert v. Tesson*, 507 F.3d 981, 994 (6th Cir. 2007) (“[A] general objection to a magistrate judge’s report, which fails to specify the issues of contention, does not suffice to preserve an issue for appeal . . . .”) (citation omitted))

Date: May 23, 2011

/s/ Elizabeth A. Preston Deavers

Elizabeth A. Preston Deavers  
United States Magistrate Judge